



SUSANA MARTINEZ
Governor

JOHN A. SANCHEZ
Lt. Governor

State of New Mexico
ENVIRONMENT DEPARTMENT
Field Operations & Infrastructure Division
DRINKING WATER BUREAU
525 Camino de Los Marquez, Suite 4
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DAVID MARTIN
Secretary

BUTCH TONGATE
Acting Deputy Secretary

CERTIFIED RETURN RECEIPT REQUESTED

7005 1820 0001 5707 9451

September 22, 2011

Nester Lozaya
Juniper Hills Mobile Home Park
6313 Calle Vencejo
Santa Fe, New Mexico 87507

RE: Administrative Compliance Order, NO. 2011-CO-026, Juniper Hills Mobile Home Park, PWS# NM3571026

Mr. Lozaya:

Please find attached Administrative Compliance Order No. 2011-CO-026, issued to Juniper Hills Mobile Home Park, PWS# NM3571026, under the Environmental Improvement Act, NMSA 1978, § 74.1.10 and the Drinking Water Regulations, 20.7.10 NMAC. Please review the Administrative Compliance Order (Order) carefully to understand what actions must be taken to comply with the requirements of the Order. Juniper Hills Mobile Home Park has a right to answer the allegations in the Order and request a hearing, pursuant to NMSA 1978, §§ 74.1.10.E (available at www.nmenv.state.nm.us).

If you have any questions or need assistance with meeting the requirements of this Order, please contact Jeff Pompeo, Enforcement Coordinator at 505-476-8620 or via email at Jeff.Pompeo@state.nm.us.

Sincerely,

Butch Tongate, Acting Division Director
Field Operations & Infrastructure Division

cc. Violette Valerio-Hirschfeld, Water System Specialist, District II
Jacob Sanders, Technical Services Specialist
Chelo Hall, Region 6, EPA (Electronic)
Electronic File
Central File

STATE OF NEW MEXICO
SECRETARY OF ENVIRONMENT

NEW MEXICO ENVIRONMENT DEPARTMENT
FIELD OPERATIONS AND INFRASTRUCTURE
DIVISION,

Complainant,
v.

No. 2011-CO-026

Juniper Hills Mobile Home Park,
PWS# NM3571026,

Respondent.

ADMINISTRATIVE COMPLIANCE ORDER

Pursuant to the Environmental Improvement Act ("EIA"), NMSA 1978, § 74-1-10, and the Drinking Water Regulations ("DW Regulations"), 20.7.10 NMAC, the Secretary of the New Mexico Environment Department ("NMED"), acting through the Director of the Field Operations and Infrastructure Division of the NMED, issues this Administrative Compliance Order ("Order") to Juniper Hills Mobile Home Park ("Respondent") to enforce the EIA and DW Regulations.

FINDINGS

1. The NMED is an executive agency within the government of the State of New Mexico and is charged with administration and enforcement of the EIA and DW Regulations.
2. Respondent owns and operates a public drinking water system ("System") located in Santa Fe County, New Mexico.
3. The System is a Community water system, as defined by Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.2, that regularly provides piped drinking water to approximately sixty (60) year round residents and has approximately twenty-four (24) service connections to serve these year round residents.

4. Respondent, Juniper Hills Mobile Home Park, is a "person" as defined by the EIA, NMSA 1978, § 74-1-3 and 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.2.

5. Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.62(b)(16) requires a Community water system to not exceed the Arsenic Maximum Contaminant Levels (MCL) of 0.010 milligrams per liter (mg/L).

6. Compliance with the Maximum Contaminant Levels (MCL) for Arsenic is determined by a Running Annual Average (RAA) as required by Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.23(i)(1).

7. Arsenic samples were collected from Respondent's Well #1 on March 3, 2008, May 14, 2008, September 29, 2008, December 18, 2008, March 30, 2009, June 11, 2009, September 22, 2009, December 21, 2009, March 3, 2010, May 20, 2010, August 4, 2010, December 1, 2010, and February 22, 2011. Analysis of the samples resulted in Arsenic concentrations of 0.013 milligrams per liter (mg/L), 0.013 mg/L, 0.013 mg/L, 0.012 mg/L, 0.013 mg/L, 0.044 mg/L, 0.012 mg/L, 0.012 mg/L, 0.019 mg/L, 0.019 mg/L, 0.018 mg/L, 0.017 mg/L, 0.023 mg/L, respectively.

8. On March 19, 2009, a Notice of Violation was issued to Respondent by NMED for violation of the Arsenic MCL during the fourth quarter of 2008. The NOV notified Respondent that it was required to provide public notice of the non-sampling violation.

9. On August 24, 2011, a Notice of Violation was issued to Respondent by NMED for violation of the Arsenic MCL during the fourth quarter of 2008, the first, second, third, and fourth quarter of 2009, the first, second, third, and fourth quarter of 2010, and the first quarter of 2011. The Notice of Violation notified Respondent that it was required to provide public notice of the non-sampling violation.

10. 20.7.10.100 NMAC incorporating 40 C.F.R. § 141.86 (d)(ii) states that all small and medium-sized water systems shall monitor during each six-month monitoring period until: The

system meets the lead and copper action levels during two consecutive six-month monitoring periods.

11. On October 10, 2008, a Notice of Violation was issued to Respondent by NMED for failure to conduct lead and copper compliance sampling for the 2007 calendar year. The Notice of Violation notified Respondent that it was required to provide public notice of the non-sampling violation.

12. On July 11, 2011, a Notice of Violation was issued to Respondent by NMED for failure to conduct initial lead and copper compliance sampling. The Notice of Violation notified Respondent that it was required to provide public notice of the non-sampling violation.

13. 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141 Subpart O, establishes requirements for publishing and submission of Consumer Confidence Reports (CCR).

14. On July 11, 2008, a Notice of Violation was issued to Respondent by the NMED for failure to submit the 2007 CCR.

15. On October 8, 2008, Respondent was notified by letter from the NMED of the need to submit the 2007 CCR certification form.

16. On August 24, 2011, a Notice of Violation was issued to Respondent by the NMED for failure to submit the 2009 and 2010 CCR.

VIOLATION 1

17. Respondent is in violation of Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.62(b), *Maximum contaminant levels (MCL) for inorganic contaminants*, which requires a public water system to not exceed the Arsenic MCL of 0.010 mg/L. Respondent exceeded the MCL for Arsenic in Well #1 during the fourth quarter of 2008, the first, second, third, and fourth quarter of 2009, the first, second, third and fourth quarter of 2010, and the first quarter of 2011

with a RAA of 0.013 mg/L, 0.013 mg/L, 0.020 mg/L, 0.020 mg/L, 0.020 mg/L, 0.022 mg/L, 0.015 mg/L, 0.017 mg/L, 0.018 mg/L, and 0.019 mg/L respectively.

VIOLATION 2

18. Respondent is in violation of Section 20.7.10.100 NMAC, incorporating 40 C.F.R. 141.86, *Monitoring requirements for lead and copper in tap water*. Respondent failed to collect lead and copper samples in 2007, 2008, 2009, and 2010.

VIOLATION 3

19. Respondent is in violation of 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.153 *Consumer Confidence Report*, by failing to prepare, publish and certify a Consumer Confidence Report (CCR) for 2007, 2008, 2009, and 2010.

RETURN TO COMPLIANCE

Based upon the foregoing findings, Respondent is hereby ordered to comply with the following:

20. By November 31, 2011, submit a proposed corrective action plan to NMED which includes a schedule and identifies steps that will be taken to bring the water system into full compliance with section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.62(b)(16), *MCL for Arsenic*.

21. By November 31, 2014, be in compliance with Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.62(b)(16), and provide drinking water with concentrations of Arsenic below the MCL of 0.010 mg/L.

22. By November 31, 2015, be in compliance with Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.23(i)(1) and have a RAA for Arsenic below the MCL of 0.010 mg/L.

23. Upon receipt of this Order, immediately comply with Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.86 *Monitoring requirements for lead and copper in tap water*, and collect lead and copper samples that meet action levels during two consecutive six-month monitoring periods.

24. By November 31, 2010, prepare and publish a 2010 CCR in the form and manner required by 40 C.F.R. 141 Subpart Q. A copy of the CCR must be submitted to the NMED.

25. Submittals made pursuant to this Order shall be sent by standard U.S. mail or certified mail with return receipt requested to the following:

Jeff Pompeo, Enforcement Coordinator
New Mexico Environment Department
Drinking Water Bureau
525 Camino de los Marquez, Suite 4
Santa Fe, NM 87505

IF RESPONDENT FAILS TO COMPLY WITH THE REQUIREMENTS OF PARAGRAPHS 20 THROUGH 25 OF THIS ORDER, THE SECRETARY OF NMED MAY ASSESS ADDITIONAL CIVIL PENALTIES NOT TO EXCEED ONE THOUSAND DOLLARS (\$1,000) FOR EACH INSTANCE OF NONCOMPLIANCE WITH THIS ORDER.

RIGHT TO ANSWER AND REQUEST A HEARING

Pursuant to NMSA 1978, §§ 61-33-120.E and 74-1-10.E and 20.1.5 NMAC (available at www.nmenv.state.nm.us), Respondent has the right to request a hearing. If Respondent (a) contests any material or legal matters upon which this Order is based; (b) contends that Respondent is entitled to prevail as a matter of law; or (c) otherwise contests the appropriateness of this Order, Respondent may mail or deliver within thirty (30) days of receipt of this Order a written Request for Hearing at the following address:

Hearing Clerk
New Mexico Environment Department
P.O. Box 5469
Santa Fe, New Mexico 87502

Respondent must attach a copy of this Order to the Request for Hearing. 20.1.5.200.A(2)(d) NMAC.

The Request for Hearing shall include an Answer. Respondent's Answer shall clearly and directly admit, deny or explain each of the factual allegations contained in this Order with regard to which Respondent has any knowledge. Where Respondent has no knowledge of a particular factual allegation, Respondent should so state, and the Respondent may deny the allegation on that basis. Any allegation in this Order not specifically denied shall be deemed admitted. 20.1.5.200.A(2)(a) NMAC.

Respondent's Answer shall also include any affirmative defenses upon which Respondent intends to rely. Any affirmative defense not asserted in the Answer, except a defense asserting lack of subject matter jurisdiction, shall be deemed waived. 20.1.5.200.A(2)(b) NMAC.

Respondent's Answer shall be signed under oath or affirmation that the information contained therein is to the best of the signer's knowledge believed to be true and correct. 20.1.5.200.A(2)(c) NMAC.

FINALITY OF ORDER

Pursuant to NMSA 1978, §§ 61-33-10.E and § 74-1-10.E, this Order shall become final unless the Respondent files a Request for Hearing with the Hearing Clerk within thirty (30) days of receipt of this Order.

SETTLEMENT CONFERENCE

Whether or not a Request for Hearing has been filed, Respondent may confer with the NMED concerning settlement of this Order. The NMED encourages settlement consistent with

the provisions and objectives of the EIA and the DW Regulations. Settlement discussions neither extend the thirty (30) day deadline for filing a Request for Hearing and Answer nor alter the deadline imposed for compliance with the mandate of this Order. Settlement discussion may be pursued as an alternative to, and simultaneously with, the hearing proceedings. Respondent may appear at the settlement conference alone or accompanied or represented by legal counsel.

A Stipulated Final Order shall finalize any settlement reached by the parties. The Stipulated Final Order must resolve all issues raised in this Order, shall be final and binding on all parties, and may not be appealed.

To explore the possibility of settlement in this matter, contact Jeff Pompeo, Enforcement Coordinator, Drinking Water Bureau, New Mexico Environment Department, 525 Camino de los Marquez, Santa Fe, NM 87505, (505) 476-8630.

COMPLIANCE WITH OTHER LAWS

Compliance with the requirements of this Order does not relieve Respondent of the obligation to comply with all other applicable laws and regulations. This Order does not constitute a waiver, suspension, or modification of the requirements of 20.7.10 NMAC and 20.7.4 NMAC which remain in full force and effect. Issuance of this Order is not an election by the NMED to forgo any civil or criminal action otherwise authorized under the EIA.

TERMINATION

This Order shall terminate when Respondent certifies that all requirements of this Order have been met and the NMED has approved such certification in writing, or when the Secretary approves a Stipulated Final Order.

Butch Tongate

Butch Tongate

Acting Division Director

Field Operations and Infrastructure Division

525 Camino de los Marquez, Suite 4

Santa Fe, New Mexico 87505

Date

9/21/11

Certificate of Service

I hereby certify that a copy of the foregoing Administrative Compliance Order was sent on _____, 2011 via certified return receipt requested to the following:

Mr. Nester Lozaya
Juniper Hills Mobile Home Park
6313 Calle Vencejo
Santa Fe New Mexico 87507

Bernice Garduno